HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19731 of 2004

Dated:06.02.2007

Between:

Adari Prakash Rao.

...Petitioner.

and

The Sub-Registrar and others.

...Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19731 of 2004

ORDER:

The petitioner purchased an industrial plot, bearing No.85/7, in Block 'D' of Industrial Development Area, Autonagar, China Gantiyada, Visakhapatnam District, for a sum of Rs.10,00,000/-, in an auction conducted by the Andhra Pradesh State Financial Corporation, Visakhapatnam. The said property was seized by the Corporation, on account of the default committed by its previous owner. The sale deed, dated 09.09.2004, executed by the Corporation in favour of the petitioner was presented for registration before the 1st respondent. The 1st respondent addressed a letter, dated 07.10.2004, to the petitioner, stating that the property was mortgaged to the Corporation for a sum of Rs.30,50,000/- and that the stamp duty for the sale deed executed in favour of the petitioner must be paid on that basis. The petitioner challenges the action of the 1st respondent.

Learned counsel for the petitioner submits that when the sale consideration is Rs.10,00,000/-, there was absolutely no basis for the

1st respondent to have referred to the amount for which the property was offered as security by way of mortgage. He contends that the letter, dated 07.10.2004, issued by the 1st respondent, is arbitrary, illegal and not referable to any provisions of the Indian Stamp Act and the Registration Act.

On behalf of the respondents, a counter-affidavit and additional counter-affidavit are filed. Though an attempt was initially made to sustain the impugned letter, it is ultimately urged that the sale deed would be processed on the basis of the actual sale consideration.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

It is rather surprising that the 1st respondent has ignored the actual sale consideration, but has chosen to refer to a recital in the sale deed, which is totally unconnected with the transaction. The recital is to the effect that the property was initially offered as security along with other properties for repayment of a sum of Rs.30,50,000/-. The fact, however, remains that Rs.30,50,000/- was never the sale consideration for this plot. The 1st respondent appears to have realised the mistake and had expressed his willingness to register the document, without any reference to the impugned letter.

Hence, the Writ Petition is allowed, setting aside the letter, dated 07.10.2004, and directing the 1st respondent

to receive the document for registration by collecting the stamp duty and registration charges on the actual sale consideration, mentioned in the document. There shall be no order as to costs.

Dt.06.02.2007
L.NARASIMHA REDDY, J

GJ